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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,707	12/15/2005	George Marmaropoulos	US030209US	6795

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1798

MAIL DATE	DELIVERY MODE
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10/21/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/560,707	Applicant(s) MARMAROPOULOS ET AL.	
	Examiner Andrew T. Piziali	Art Unit 1798	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. The amendment filed on 9/28/2010 has been entered.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-9 and 21-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "predefined markings" renders the claims indefinite. It is not clear what event occurred after the markings were defined. It is noted that the use of "predetermined" has been held to be indefinite in a claim where it simply means determined beforehand, *Joseph E. Seagram & Sons, Inc. V. Marzall*, Comr. Pats., 84 USPQ 180 (Court of Appeals, District of Columbia).

Regarding claim 6, the specification is silent regarding the actuator being formed from a material that is more rigid than the conductive elastomeric material. Rather, the specification merely discloses that actuator is preferably formed from a "relatively rigid material" without teaching or suggesting that the conductive elastomeric material is the material which is relative.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 2, 5-9 and 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPAP 2001/0017759 to Marmaropoulos in view of USPN 4,703,521 to Asher.

Marmaropoulos discloses a textile construction comprising a conductive elastomeric material (cords) including at least one area for converting a mechanical interaction therewith into at least one signal related to the at least area of the conductive elastomeric material; and an actuator (grip) for mechanically interacting with the at least one area of the conductive elastomeric material, the actuator including a user interface having predefined markings describing functions of an electronic device that are initiated by the at least one electronic signal (see entire document including Figures 3 and 4, [0016], [0022], [0023] and [0024]).

Marmaropoulos is silent with regards to specific actuator (grip) materials, therefore, it would have been obvious to look to the prior art for conventional materials. Asher discloses that it is known in the outer garment art to connect elastic cords to a plastic material to hold (grip) the cord when it is elongated (see entire document including the paragraph bridging columns 4 and 5). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the actuator from plastic, motivated by the expectation of successfully practicing the invention of Marmaropoulos and because it has been held to be within

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the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claim 2, one or more characteristics (e.g., resistance) of the conductive elastomeric material changes in response to the interaction [0016].

Regarding claim 5, the conductive elastomeric material can have one or more of the claimed elements [0016].

Regarding claim 6, the actuator material is necessarily more rigid than the conductive elastomeric material to allow for mechanical use.

Regarding claim 7, Marmaropoulos does not specifically disclose that the actuator (48) is formed from rubber, but Marmaropoulos does disclose that the actuator is an insulating grip for a jacket [0023]. The examiner took official notice (now admitted prior art) that rubber is a known material used for gripping products. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the insulating grips from any suitable material, such as rubber, because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claim 8, the actuator includes visual markings (Figures 3 and 4).

Regarding claim 9, one or more characteristics of said conductive elastomeric material changes in proportional response to said interaction, said interaction causing one or more areas of said conductive elastomeric material to be displaced ([0023] and [0024]).

Regarding claims 21, the actuator is cooperative with two or more conductive areas (Figures 3 and 4).

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Regarding claim 22, one or more characteristics of said one or more conductive areas change in response to an interaction with said actuator ([0023] and [0024]).

Regarding claim 23, the degree of displacement is measured [0017].

Regarding claim 24, the interaction causes one or more areas of said conductive elastomeric material to be displaced without requiring a lateral displacement of said actuator (Figure 4).

Regarding claims 25-27, the user interface is operable for manipulation of three or more functions (Figure 4).

Regarding claims 28-31, the conductive elastomeric material is formed from conductive fibers having a conductive core [0016].

6. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPAP 2001/0017759 to Marmaropoulos in view of USPN 4,703,521 to Asher as applied to claims 1, 2, 5-9 and 21-31 above, and further in view of USPN 6,360,615 to Smela.

Marmaropoulos does not appear to mention the specific stretchable and conductive cord material, therefore, it would have been obvious to look to the prior art for conventional materials. Smela provides this conventional teaching showing that it is known in the art to use piezoelectric materials, such as polypyrrole/polyester (see entire document including column 7, lines 32-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cord material from a piezoelectric material, such as polypyrrole/polyester, motivated by the expectation of successfully practicing the invention of Marmaropoulos and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

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Response to Arguments

7. Applicant's arguments filed 9/28/2010 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on (571) 272-1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew T Piziali/
Primary Examiner, Art Unit 1798